Magistrate's Load Too Heavy

11,392 Cases One Man's Job

Division of Duties Urged by Experts

By ERITH M. SMITH

A magistrate who must preside over all police court cases in an area with a population of 125,000, and who in addition must consider all family cases and many juvenile court matters, is apt to be an overworked man.

This has been the case in Greater Victoria—although the magistrate himself is not one to say so.

From his appointment in 1936 until his recent illness, Magistrate Henry C. Hall sat in court six mornings and five afternoons every week.

11,000 Cases

In 1958, on the bench and in his chamber, he dealt with a total of more than 11,000 cases of all kinds.

Magistrate Hall reached retirement age, 75, last Nov. 25, and his term of office was extended to the end of February. When he became suddenly ill before court one recent morning, his place was taken by William Ostler, clerk of the court in Victoria and a stipendiary magistrate.

Magistrate Ostler's appointment runs until Magistrate Hall is able to return to duty, but in any event permanent appointment of a new magistrate must be made soon.

At least two men concerned with the work of the magistrate agree that the work involved in this position should be divided.

Mayor Percy Scurrah of Victoria and Edwin E. Pearlman, president of the Victoria Bar Association, advocate establishment of a Family Court for Greater Victoria, with its own judge.

Such a court would take over all juvenile cases within the area, and all court cases dealing with husband-and-wife and other family matters.

Under the existing setup, the Greater Victoria police magistrate handles all of these except juvenile cases in Victoria proper. The city has a separate juvenile court, with its own judge.

Magistrate Hall (or Ostler), however, hears juvenile cases in Oak Bay and Saanich on Wednesday afternoons, visiting each municipality for the purpose. On Monday afternoons he has regular Esquimalt police court and then, if that municipality has juvenile cases, he journeys to Esquimalt to hear them.

This is part of a regular work week which sees him in city police court six mornings; in small debts court Tuesday afternoons; in Saanich police court Thursday afternoons, and Oak Bay police court Friday afternoons.

In addition, outlying municipalities may need a special morning court session, which precedes the city court hearing.

At present, about every 10th day in city court is set aside for family matters, and in other municipal courts these come up at the conclusion of the regular sittings.

This involves a great deal of extra waiting time for all concerned in the family cases, and very often a prolonged court session for the magistrate and other court officials.

Mayor Scurrah would approve establishment of a separate family court mainly, he said, because "humanities must come first."

He went on:

"Such a court would be invaluable, especially as our community grows. Importance of the family is a basic thing, and frequently it may happen that early court action may preserve the family as a unit.

"Isn't it infinitely better and, in the long run, less expensive, to keep a family together by helping it to solve its problems, than to be compelled to pursue its broken, unguided members through sessions in juvenile court and correctional institutions?

Cheaper, Too

"It appears to me that the family court would be better, not only from the human angle, but from a dollar-and-cents point of view as well."

Mr. Pearlman agreed with the advisability of a family court in a growing community as is Greater Victoria, and had a word to add on the importance of the police magistrate's position.

"The police court," he said, "is the place in which a majority of the public gets its first, and perhaps only, impression of justice in action.

"It is most important that the efficiency, and the dignity, of this court be preserved."

11,392 Cases

What did the magistrate face last year?

In Victoria police court, 7,601 cases.

In Saanich police court, 1,963 cases; juvenile court, 242 cases.

In Esquimalt police court, 1,030 cases; juvenile court, 40 cases.

In Oak Bay police court, 376 cases; juvenile court, 80 cases.

Not all of these involved actual appearances in court. Almost all that did not, still required an information to be sworn out before the magistrate, and to bear his signature.

Of the rest, they ranged from a few seconds of the court's time to trials lasting, in some cases, hours of hearing stretched over days or weeks.

One man's position would thus seem definitely to be a two-man job.

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MAGISTRATE WILLIAM OSTLER
. . . holding the fort

Shacks 'Baby Killers'

PEMBROKE, Ont. (UPI)—Coroner Dr. H. B. Cotnam has branded a rundown housing area near here as a "baby killer" after an infant girl died in a cabin of pneumonia, malnutrition and dehydration.

He ordered an inquest into the death Tuesday of five-months-old Shirley Ann Barnhart, one of the six children of Mr. and Mrs. Donald Barnhart who live in a shack about 15 miles west of Pembroke. The baby was the fourth to die of malnutrition and cold in the area during the last five years.

"The conditions in that row of 15 shacks are deplorable," said Dr. Cotnam. "Something must be done about the conditions . . . that area is a baby killer."

Donald Barnhart, 29, is a garage worker in nearby Petawawa, but has been in hospital with a shoulder injury and the family has been on relief ever since. Barnhart's family live in a one-room cabin, 25 feet by 25 feet, for which they pay $26 a month for rent

H. Graham Walsh, Crown attorney, said he believed no charges could be laid in the death of the baby.

"They are poor people out at these cabins . . . they die off like flies out there," he said.

The Children's Aid Society in Toronto said the five remaining Barnhart children will be cared for by the society. They range in age from 17 months to six years.

Sidney, Keating On Dial March 2

The Sidney and Keating telephone systems will be converted to dial operation early Monday, March 2.

Division commercial manager E. L. Mallett said in Victoria the actual switchover to the new automatic systems would take place in a matter of seconds, causing a minimum of inconvenience to telephone subscribers on the Saanich Peninsula.

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The Courtroom Parade

Wounded Man's Story Ends Stabbing Case

A charge of causing bodily harm by wounding was dismissed by Magistrate William Ostler in city police court yesterday following testimony of one prosecution witness.

Mrs. Elizabeth Mary McLellan had been charged following the stab-wounding last week of Robert H. Jones at 1312 Government, where the two were living as common-law husband and wife.

The sole witness yesterday was Mr. Jones, who told the court what happened.

The two had been out drinking in city beer parlors, he said, then brought some whisky and wine back to their room. Theye were "pretty well inebriated."

"The accused," said the witness, "was cutting up chicken for dinner, then said she was going out to another pub. I told her she was not going to leave, she'd had too much.

"'I'll go anywhere I want; you can't stop me,' she said, coming toward me with the knife in her hand.

"I told her it was rude to wave a knife like that, and then we staggered together. I didn't even know I was cut until next morning," said the witness.

"You say in effect that you stabbed yourself?" asked prosecutor T. P. O'Grady.

"I did, sir," was the reply. "It was purely accidental on both parts."

Mr. O'Grady then said in view of this testimony he would call no further evidence.

Magistrate Ostler told the witness the evidence he had given was beyond credulity, then turning to accused, he said:

"You are getting a break you do not deserve. The charge is dismissed."

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In the same court J. H. Lacey, 1576 Vining, was fined $50 for consuming liquor in a public place.

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As a result of a midnight street-corner melee in September, 1957, Gerald R. Gladstone, 576 Toronto, was sentenced to a six-month jail sentence in Saanich police court yesterday.

Earlier he had pleaded guilty to a charge of assault causing grievous bodily harm to Barry Cave, 216 Gorge West, on Sept. 24, 1957.

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Also sentenced by Magistrate Ostler to six months in jail was Donald William Thomson, Mt. Newton Crossroad, who pleaded guilty to theft of two suede jackets and a car coat from a ferry plying between Victoria and Vancouver Oct. 5 last.

The charge was laid in Vancouver, and transferred to Victoria at the request of Magistrate Oscar Orr of the mainland city. Sentence was made concurrent with a similar sentence already given accused in Oak Bay police court on a break-and-entry charge.

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Pleading guilty to a charge of failing to file an income tax return, Saanich resident Clifford N. Bicknell was fined $25.

Hall President Of B.C. Foresters

William Hall, of the surveys and mapping branch of the department of lands and forests, was elected president of the Association of British Columbia Foresters at the recent annual meeting.

Alan Moss of Kelowna was elected vice-president.

New council members include: W. Gerald Burch, E. E. Gregg, Lorne F. Swannell and Thomas G. Wright.

F. M. Knapp was re-appointed registrar.

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